

utilize all of our authorized positions in order to ensure that we stay within budget. Another piece of information they have requested is a listing of all of our training activities. This is a request that we've never received before, so we don't really know what the issue might be. Executive Director/Chief Administrative Law Judge Jay Arcellana speculated that Labor Agency may be looking toward co-training with other agencies under the Labor umbrella.

Chief Counsel Ralph Hilton interjected that Labor Agency has also requested information on the six cases CUIAB has lost in court this year.

Executive Director/Chief Administrative Law Judge Arcellana reported that under the Government Code CUIAB is required to comply with the provisions of FISMA, the Financial, Integrity and State Manager's Accountability Act. A decision was made early on to sub-contract that audit to EDD because they already perform these audits for themselves and other departments. Michelle Robinson, P&PM, is our liaison for this audit, and reports that EDD has already indicated that we will receive what they term a "clean report," meaning there were no significant adverse findings. There are six minor findings requiring a response and solution. We have an exit interview scheduled with them later on this month, and we should have full a full update at the next Board Meeting. Executive Director/Chief Administrative Law Judge Jay Arcellana stated he is especially pleased with the audit findings, because under the Government Code, the Executive Director is personally liable for any adverse audit exceptions.

Executive Director/Chief Administrative Law Judge Arcellana also noted, as reported by the Chair, she has been given training by the Appellate Operations staff on hearing and deciding cases. Branch reports and orientations are also taking place.

Executive Director/Chief Administrative Law Judge Arcellana further reported that ALJ Kathy Sure, San Jose Office of Appeals, has just completed a one month loan assignment to the Division of Fair Labor Standards and Enforcement. This was done pursuant to a request from Agency to share staff, and he commended Kathy for taking on such a difficult assignment. Kathy had to manage some very complex issues, and then provided an in-depth analysis to DIR and Agency regarding her assignment. Her analysis concluded that these cases/issues required a high degree of specialization that is hard to achieve on a temporary basis.

Executive Director/Chief Administrative Law Judge Arcellana advised that all state agencies have been sent a budget letter which requires the encryption of mobile IT devices, such as lap-tops, blackberries and PDA's, if they contain sensitive or confidential information. We have four months to comply with this directive.

Executive Director/Chief Administrative Law Judge Arcellana went on to report that he had the opportunity to meet with Appellate Operations earlier this month and that it was a very productive meeting.

Executive Director/Chief Administrative Law Judge Arcellana stated that on a personal note, he and Ron Kammann visited former Chief ALJ Mike DiSanto about three weeks ago. Mike is doing very well. He is moving around with a cane and is very animated. He cannot speak yet but is hopeful that his speech will eventually return. Another personal item to report is that PALJ Margaret Ellison is retiring effective today. Margaret was struck with cancer and is taking a disability retirement.

Finally, Executive Director/Chief Administrative Law Judge Arcellana reported that he and the Chair met earlier in the week and they will be planning a going-away function for the former Chair, one north and one south, and they will try to make it an casual function, possibly a luncheon, to recognize her contribution to the CUIAB.

7. Branch Reports:

- a. Executive Director/Chief Administrative Law Judge Arcellana advised that the Employment Development Department has just published the unemployment rate for California, and they came in with a rate of F plus. This seems to indicate that UI fund solvency problems still remain.

Executive Director/Chief Administrative Law Judge Arcellana reported a statewide conference call with all of the PJ's was called to discuss Joan's arrival and other items. Executive Director/Chief Administrative Law Judge Arcellana was also pleased to announce that for the third straight quarter we have met Department of Labor standards. The Federal Standard is 85% and the field average was 87%, so that is very positive. There is always room for improvement, so we will be meeting with the trainers to make certain we continue with this progress.

Executive Director/Chief Administrative Law Judge Arcellana gave a power point presentation on the CUIAB's current workload. (Attachment A)

- b. Deputy Chief ALJ, Appellate Operations Steve Angelides welcomed Chair Borucki to the agency and commented that the Appellate Operations judges are just as pleased with her as a student as she is with them as teachers.

Deputy Chief ALJ, Appellate Operations Angelides reported that in October registrations dropped to 1101. This is the lowest since January 2002, and is consistent with the trend of a falling appeal rate. The appeal rate in October dropped to 5.6%, the lowest this year and well below the year average of 7.4%. So, our incoming workload is low and the appeal rate is also low. Dispositions in October dropped down to 1066, the lowest since February of 2002. This drop reflects loans to the field, and the permanent loss of resources as the three ALJ's who are preparing to retire, Mike Canar, Tamara Pierson and Ernie Schultzke, are using their accrued vacation. We also have devoted considerable time recently to precedent decisions and on-going special assignments. We only used eight and a half full time equivalent ALJ's in

October, just 70% of the year average. However, the ALJ's who did work were more productive than normal, producing an average of 32 dispositions per week compared to the annual average of 29. Because dispositions dropped slightly more than registrations in October, the balance of open cases has increased slightly to 110% of the calendar year average. However, unless the incoming workload increases, the backlog should fall significantly over the next few months. The influx of tax cases also seems to have peaked. Fifteen new cases were registered in October, compared to 63 in August. The tax appeal rate has also returned to normal, at 12.4%, down from 27.4% in August. The average case age and median case age rose slightly to 46 and 41 days, respectively, close to our calendar year averages. We still have a batch of older cases we are working off, but we are receiving fewer cases to average out. We have disposed of almost all of our multi cases. The most recent multi went to the Board this past Tuesday, and it is a small multi. As a result, the number of cases that have been at Appellate Operations more than 120 days has dropped to only 79, which is close to the calendar year low. If the incoming workload continues to remain low, the reduced workforce due to retirements, augmented by our newly retired ALJ's working as retired annuitants, should be sufficient to handle it. If the incoming workload increases, we will have to borrow or transfer some ALJ's from the field.

Deputy Chief ALJ, Appellate Operations Angelides continued to report that the training of the new Chair is under way, lead by ALJ Martha Geiger. She has prepared a binder for the new chair and a copy for all of the other board members to use as a resource. We have also prepared a transition package for the new chair and a copy has been provided to all the other board members for their reference as well. There will be an Appellate Operations meeting November 22nd at 1:30, and any board members who are able to attend are welcome.

On the social scene, Deputy Chief ALJ, Appellate Operations Angelides reported that the annual holiday luncheon will be December 7th and everyone is invited.

- c. Deputy Director, Administrative Services Branch Pam Boston welcomed the new Chair to the CUIAB on behalf of Administrative Services. There have been quite a few personnel changes in the Administration Branch. Nona Mullins, who worked in personnel, has recently transferred to Business Services. Cecilia Quesada has been hired in the Personnel Transactions unit, and Francis Aguilar has been appointed Personnel Officer for CUIAB. She has been with the agency for 21 year and this is a well deserved promotion for her. Dorothy Alkire has retired after 14 year with the CUIAB, and Doug Mattes, from the Sacramento Office of Appeals, has been hired to fill in behind her. John Alton has been hired as a new facility representative. Within the Information Technology unit two new sub units have been created and supervisors have been appointed. Nick Dressler is in charge of the application telecommunications unit and Raphael Placencia is in charge of the infrastructure and clients services unit.

Deputy Director, Administrative Services Branch Boston went on to report that the Labor Relations officer, Mary Shaw, and Personnel Officer, Francis Aguilar have completed the PJ training for John Martin of Inglewood, Cindy Rosse of San Jose, and Amy Oppenheimer from Oakland. It was a positive training for all involved.

Additionally, Deputy Director, Administrative Services Branch Boston reported that there are several exams pending: an Executive Secretary exam, which should be completed by the end of the month, a spot exam for the Legal Support Supervisor which should be complete by the middle of December, and open Administrative Law Judge Exam for which the bulletin is due for release on November 23. We are hoping to have a new ALJ list sometime in April. Proposed exams for next year, 2006, are the Management Services Technician, Office Technician, and a Program Technician III exam. These are statewide exams.

- d. Deputy Director, Planning and Program Management Branch Mary Walton-Simons also welcomed the new chair to the CUIAB, and reported that senior management of the Planning and Program Management staff, Renee' Erwin, Martha Silva and Michelle Robinson, met with Joan earlier in that week to brief her on the functions of P&PM and to provide their transition package. A copy of the package will also be provided to all of the other board members.

Deputy Director, Planning and Program Management Branch Mary Walton-Simons reported that the two internal divisions of P&PM will be reorganized. Strategic Planning and Language and Training divisions have been combined. Many of the projects were being commingled, so it made sense to combine the two divisions under one manager. The new manger is Martha Silva, and the assistant manger is Ralyne Long. Some of the projects they have been working on together were the customer survey and, most recently, the digital recording training.

Deputy Director, Planning and Program Management Branch Mary Walton-Simons also reported on the digital recording pilot for which, under the leadership of Martha Silva, the P&PM software trainers have worked with Mary Mitchell from IT to create a training manual and evaluations for the ALJ's, support staff, and hub administrators. The evaluation sheets were developed and tallied by the strategic planning staff under the management of Ralyne Long in P&PM.

Deputy Director, Planning and Program Management Branch Mary Walton-Simons further reported that Oakland PALJ Amy Oppenheimer and her LSS II Joann Byrne contacted P&PM for assistance because they were short on supervisors. One was on vacation for one month and the other position was vacant. Occasionally the P&PM staff will step in and assist in a situation like this. Since the first line of back-up support is the Regional Support Unit, Tim McArdle and Renee' Erwin met with Amy and Joann yesterday, and arranged for the Regional Support Unit in Southern California to do most of their

registrations, and the Regional Support Unit Staff in Northern California would be at their office to provide other assistance. If further assistance is required, five P&PM staff members would be made available.

Finally, Deputy Director, Planning and Program Management Branch Mary Walton-Simons provided a summary of the customer survey. In the month of August, the P&PM staff conducted a customer satisfaction survey. The survey was conducted in the lobbies of all of the offices of appeals for a two-week time period. A five point Likert scale was used, with eight closed-ended questions. Seven of the eight questions received an average 94% approval rating, and a 1.5% disapproval rating. All of the other percentage points were neutral. The one response with the 82% approval rating was on the hearing information pamphlet. This was because some parties to the hearings (witnesses, interpreters) do not receive the hearing information pamphlet as part of the hearing process so they rated the question as "neutral" which totaled 15% since they could not rate it. Further analyses will be done to find out if there is a way to improve on the hearing information pamphlet in any event. The survey had two parts: the quantitative part (the eight closed-ended questions), and the qualitative part (the comments section). The data analyses has been completed now for the qualitative part of the survey. As reported at the last Board Meeting, 74% of the surveys received had usable data. Of those, 327 had comments on them, so 17% of the usable surveys had qualitative data. That data has been broken into two areas. One area is called additional commentary and the other part is called suggestive commentary. A typical comment received read, "I like that it is one on one, plus it is very private." That comment came from the Inglewood Office of Appeals. Second quote, "I was really nervous on arrival but became very comfortable. The judge explained in a language that I could understand. I was very pleased." That comment came from the Inland Office. Next quote, "I really did feel that I was treated fairly and given help and assistance to help me with my case." That was from the Los Angeles Office. These comments reflect the comments received statewide. On the suggestive commentary part of the 327 received, 117 of them or 36% had suggestions. A couple of suggestions made were "they would like more time for their hearings", but the survey results showed that 95% said they had enough time for their hearings. Another one said "they were missing documents to support their case and they were not provided by EDD to the judge". That has actually been an ongoing issue with EDD, possibly due to the fact many times EDD either does not attend the hearings, they do not send the supplemental documentation in time, or at the hearing they do not have the documentation with them.

Vice Chair Richardson commented that she was interested in viewing a copy of the hearing information pamphlet.

Chair Borucki commented that we should look into communicating in a different manner to the different generation age groups we serve, something the DMV has found very effective.

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton referred to two reports in the Board Member packets. The Board Workload Report (Attachment B) reflects that each board member handled and decided 441 cases in the previous month, which averages out to about 20 cases per day. The other report is the Litigation Report (Attachment C), which reflects that the CUIAB is currently carrying 121 cases; two new cases were filed last month, and three cases were closed. In each of the cases that were closed, the board's decision was affirmed.

Chief Counsel Hilton went on to report that the Court of Appeals decision in the *First Aid Services* case has been certified for publication, at our request. This is the decision which establishes that under the law, a petitioner who wishes to challenge a status determination in court must first pay any taxes due. Prior to this decision there was uncertainty about the application of the anti-injunction provisions of the Unemployment Code to benefit cases.

9. Unfinished & New Business:

A power point presentation was given on the status of the digital recording pilot. (Attachment D)

10. Public Comment:

There was no public comment.

11. Closed Session:

The regularly scheduled Board meeting adjourned, and the Board did not go into closed session.